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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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KURT L. KLESTADT,

Plaintiff,

-against-

**ORDER**

**14-CV-2831 (NGG) (LB)**

ARNE DUNCAN, SECRETARY OF  
EDUCATION, U.S. DEPARTMENT OF  
EDUCATION, and NYC BOARD OF  
EDUCATION,

Defendants.

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NICHOLAS G. GARAUFIS, United States District Judge.

Pro se Plaintiff Kurt L. Klestadt brings this employment discrimination action against Secretary Arne Duncan of the U.S. Department of Education<sup>1</sup> and the New York City Board of Education (together, “Defendants”), for violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17 (“Title VII”), and the Age Discrimination in Employment Act (“ADEA”), 29 U.S.C. §§ 621-34. (See Compl. (Dkt. 1).) Plaintiff alleges that Defendants discriminated against him on the basis of his gender, national origin, and age. (Id. ¶ 7.) Defendants moved to dismiss the Complaint for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). (See U.S. Department of Education Not. of Mot. (Dkt. 33); New York City Board of Education Not. of Mot. (Dkt. 28-1).) On February 25, 2016, the court granted Defendants’ motions to dismiss the Complaint, but allowed Plaintiff sixty days to amend the Complaint to include additional supporting allegations. (Mem. & Order (Dkt. 36).) The

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<sup>1</sup> Plaintiff originally named the “U.S. DOE” as a defendant in this action, which the court assumes to be the U.S. Department of Education, rather than the U.S. Department of Energy. (See Compl.) “U.S. DOE” commonly refers to the U.S. Department of Energy. (Mem. & Order (Dkt. 36) at 1 n.1.) Because the proper defendant in a Title VII or ADEA lawsuit is the “head of the federal agency in which the alleged discriminatory actions occurred,” U.S. DOE was replaced with Arne Duncan, Secretary of Education, U.S. Department of Education. (Id.)

court warned that Plaintiff's failure to amend the Complaint in a timely fashion would result in the dismissal of this case with prejudice. (Id. at 11.) More than sixty days have passed since the court's February 25, 2016, Memorandum and Order, and Plaintiff has not amended his Complaint. Accordingly, this action is DISMISSED with prejudice. The Clerk of Court is respectfully directed to close the case.

SO ORDERED.

Dated: Brooklyn, New York  
May 2, 2016

s/Nicholas G. Garaufis

NICHOLAS G. GARAUFIS  
United States District Judge